

AO 120 (Rev. 2/99)

SOLICITOR

TO: Mail Stop 8 ***AMENDED***
 Director of the U.S. Patent & Trademark Office
 P.O. Box 1450
 Alexandria, VA 22313-1450

SEP 15 2008
 U.S. PATENT & TRADEMARK OFFICE

REPORT ON THE
 FILING OR DETERMINATION OF AN
 ACTION REGARDING A PATENT OR
 TRADEMARK

In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court Northern District of CA (Oak) on the following ☐ Patents or ☒ Trademarks:

DOCKET NO. CV 08-04212 SBA	DATE FILED 09/05/2008	U.S. DISTRICT COURT Northern District of CA (Oak)
PLAINTIFF Wangson Biotechnology Group, Inc.		DEFENDANT Tan Tan Trading Co., Inc.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 2,537,561		***SEE ATTACHED COMPLAINT***
2		
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wicking	(BY) DEPUTY CLERK Jessie Mosley	DATE September 9, 2008
-----------------------------	------------------------------------	---------------------------

Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

FILED

2008 SEP -5 P 3:31

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

Free Paid
NP
(9)

OTTO O. LEE (SBN 173987)
olee@iplg.com
JOHN V. MEJIA (SBN 167806)
jmejia@iplg.com
MARGAUX A. AVIGUETERO (SBN 244767)
maviguetero@iplg.com
INTELLECTUAL PROPERTY LAW GROUP LLP
12 South First Street, Twelfth Floor
San Jose, California 95113
Telephone: (408) 286-8933
Facsimile: (408) 286-8932

ADR

Attorneys for Plaintiff
WANGSON BIOTECHNOLOGY GROUP, INC.
E-mailing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WANGSON BIOTECHNOLOGY GROUP, INC.
a California Corporation,

Plaintiff,

v.

TAN TAN TRADING CO., INC., a California
Corporation, CATHAY CHINESE HERBS, form
unknown, and DOES 1-100

Defendants.

C08 04212 HRL

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR:

- 1) Federal Trademark Infringement under 15 U.S.C § 1114(1);
- 2) False Designation of Origin and False Advertising under 15 U.S.C. § 1125(a); and
- 3) Unfair Competition Under California Business and Professions Code § 17200 et seq.
- 4) Common Law Trademark Infringement
- 5) Common Law Unfair Competition

JURY TRIAL DEMANDED

For its complaint against Defendants, Tan Tan Trading Co., Inc. ("Tan Tan"), Cathay Chinese Herbs ("Cathay"), and Does 1-100 ("DOES") (hereinafter, a reference to "Defendant" or "Defendants" shall mean "each of the defendants" including DOES 1-100, unless the context specifies otherwise), Plaintiff Wangson Biotechnology Group, Inc., ("Plaintiff") alleges as follows:

NATURE OF ACTION

1
2 1. This is a civil suit at law and in equity to remedy acts of federal trademark
3 infringement under 15 U.S.C. § 1114; false designation of origin arising under 15 U.S.C. § 1125(a);
4 trademark infringement and unfair competition arising under the laws of the State of California, Cal.
5 Bus. & Prof. Code § 17200 *et seq.*; common law trademark infringement; and common law unfair
6 competition caused by Defendants' unauthorized and misleading use of Plaintiff's distinctive and
7 exclusive dietary pill box design, ideas, content, and trademarks thereto in commerce and in direct
8 competition with Plaintiff.

PARTIES TO THE ACTION

9
10 2. Plaintiff is a corporation duly organized and existing under the laws of the State of
11 California, having its principle place of business and mailing address at 20762 East Carrey Road,
12 Walnut, California 91789.

13 3. On information and belief, Tan Tan is a corporation organized and existing under the
14 laws of the State of California, having its principal place of business and mailing address at 469
15 Thornton Avenue, San Francisco, California 94124. Tan Tan also operates a retail store located at
16 1222 Stockton Street, San Francisco, California 94133.

17 4. Cathay is a retail store, a business form unknown, located at 388 8th Street, Oakland,
18 California 94607.

19 5. The true names and capacities of the defendants named and sued herein as DOES 1
20 through 100, inclusive, are unknown to Plaintiff, who therefore sues said defendants by such
21 fictitious names. Plaintiff will seek leave to amend this Complaint when said defendants' true names
22 and capacities have been ascertained. Plaintiff is informed and believes that each of the fictitiously
23 named defendants is in some way are responsible for the acts and omissions hereafter set forth.
24 Plaintiff is further informed and believes and thereon alleges that each of the fictitiously named
25 defendants was the agent of one or more of the other defendants named herein, and in doing or
26 omitting to do the acts hereinafter alleged, was acting within the course and scope of that agency and
27 with the knowledge and consent, whether express or implied, of each of said other defendants.

28 //

JURISDICTION AND VENUE

6. This action arises under the Federal Trademark Act, 15 U.S.C. §§ 1051 *et seq.* and under related applicable state statutory and common laws.

7. The Court has original subject matter jurisdiction over this action under 15 U.S.C. §§ 1114, and 1125, and 28 U.S.C. §§ 1331 and 1338(a). The Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. §§ 1367 and 1338(b).

8. The Court has personal jurisdiction over the Defendants because the Defendants maintain continuous and systematic commercial contacts with the State of California. Also, the Defendants have purposefully availed themselves of the opportunity to conduct commercial activities in this forum, and this Complaint arises out of those activities

9. On information and belief, venue in this District is proper under 28 U.S.C. § 1391(b) and (c), in that the Defendants are engaged in conducting and transacting business within the State of California and within this District in connection with the allegations of this suit, and have actively sold and distributed infringing products, and have committed the unlawful acts complained of herein in this District, and are subject to personal jurisdiction in this District. Furthermore, the Defendants reside in this District.

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because the Court has personal jurisdiction over Defendants and because Defendants' acts have taken place in this district.

INTRADISTRICT ASSIGNMENT


11. This is an Intellectual Property Action subject to district-wide assignment under Local Rule 3-2(c).

GENERAL ALLEGATIONS

12. Plaintiff, directly and/or through its predecessors, has been continuously manufacturing, selling, marketing, advertising, and distributing dietary supplement pills and powders, vitamins and mineral supplements, and dietary herb capsules (hereinafter "dietary supplements") for consumers in interstate commerce.

13. Plaintiff, directly and/or through its predecessors, has continuously used the Wangson design mark ("Wangson Design") depicted below in interstate commerce since at least as early as


October 1997 to identify its dietary supplements and to distinguish them from those made and sold by others by, among other things, prominently displaying the Wangson Design on the goods, their containers, and the displays associated therewith.

Mark	Reference
	Hereinafter referred to as "Wangson Design")


14. Plaintiff is the owner of a U.S. Trademark Registration 2537561 for the Wangson Design in International Class 005 for dietary herb powders and dietary herb capsules. *See Exhibit 1.* Wangson Health Products Group Inc. validly assigned the Wangson Design to Plaintiff by means of a written assignment dated January 28, 2002. Said assignment was recorded in the United States Patent and Trademark Office ("the USPTO") and Plaintiff continues to be the owner of the Wangson Design.

15. Plaintiff has filed with the USPTO an affidavit of use of the Wangson Design as required by 15 U.S.C.A. § 1058(a), and said registration is presently valid. The validity of the Wangson Design, Plaintiff's ownership of the Wangson Design, and Plaintiff's exclusive right to use said registered mark in commerce for the subject products are incontestable under 15 U.S.C. §§ 1065 and 1115(b), as Plaintiff has filed, and the USPTO accepted, the affidavit of incontestability.

16. Plaintiff, directly and/or through its predecessors, has continuously used the LIVEREN G mark and its transliteration in Chinese letters (hereinafter "PeiDeYuan") as depicted below in interstate commerce since at least as early as December 7, 1998 to identify its dietary supplements and to distinguish them from those made and sold by others by, among other things, prominently displaying the LIVEREN G and PeiDeYuan Mark on the goods, their containers, and the displays associated therewith.

Mark	Reference
	Hereinafter referred to as "PeiDeYuan"

17. Plaintiff, directly and/or through its predecessors, has continuously used the PENTAGYN mark and its transliteration in Chinese letters (hereinafter "PanDaKang") as depicted below in interstate commerce since at least as early as February 3, 1999 to identify its dietary supplements and to distinguish them from those made and sold by others by, among other things, prominently displaying the PENTAGYN and PanDaKang marks on the goods, their containers, and the displays associated therewith.

Mark	Reference
	Hereinafter referred to as "PanDaKang"

18. Plaintiff applied to register the PENTAGYN, LIVEREN G, PeiDeYuan and PanDaKang marks at the Principle Register with the USPTO in class 005 for dietary supplements, food supplements, herbal supplement, vitamin and mineral supplements. The PENTAGYN mark application was assigned the Serial No. 77532008, the LIVEREN G mark application was assigned

1 the Serial No. 77532021, PeiDeYuan was assigned the Serial No. 77536564, and PanDaKang mark
2 application was assigned the Serial No. 77536541. *See Exhibits 2-5.*

3 19. Plaintiff has prominently displayed its marks, 1) Wangson Design, 2) LIVEREN G,
4 3) PeiDeYuan, 4) PENTAGYN, and 5) PanDaKang (collectively "the Wangson Marks") on
5 letterheads, bills, and advertising materials distributed in interstate commerce.

6 20. Plaintiff, and its predecessors, have been continuously using, advertising, marketing
7 and distributing in interstate commerce its LIVEREN G brand dietary supplements in a box, that has
8 a distinctive and original visual design since at least as early as December 7, 1998 (the "Liveren G
9 Box"). *See Exhibit 6.* Plaintiff's Liveren G Box contains original visual elements including, but not
10 limited to:

- 11 a. Plaintiff's distinctive trademarks and locations of the LIVEREN G, Wangson
12 Design, and PeiDeYuan marks;
- 13 b. The picture of the pills and a herbal leaf on the front face of the box and the
14 picture of the American flag on the background covering the entire front face of
15 the box;
- 16 c. The green background color of the entire box;
- 17 d. The yellow line on three sides of the box with a fading visual effect on each end,
18 where the Chinese characters are displayed in red color; and
- 19 e. The wording and location of the supplemental facts, ingredients, directions, and
20 warning at the back face of the box.

21 21. In 2004, Plaintiff did a minor revision to the Liveren G Box by adding a rainbow
22 design in red, yellow, and blue colors on the front face of the box. *See Exhibit 7.* In 2006, Plaintiff
23 did another minor revision to the Liveren G Box by adding the same rainbow design on the side of
24 the box. *See Exhibit 8.* Plaintiff has been continuously using, marketing, advertising, and
25 distributing the 2006 variation of the Liveren G Box in connection with its LIVEREN G brand
26 dietary supplements in interstate commerce since then.

27 22. Plaintiff, and its predecessors, have been continuously using, advertising, marketing,
28 and distributing in interstate commerce its PENTAGYN brand dietary supplements in a box that has

1 a distinctive and original visual design since at least as early as February 7, 1999 (the "Pentagyn
2 Box"). *See Exhibit 9*. Plaintiff's Pentagyn Box contains original visual elements including, but not
3 limited to:

- 4 a. Plaintiff's distinctive trademarks and locations of the PENTAGYN, the Wangson
5 Design, and the PanDaKang marks;
- 6 b. The picture of the pills and a herbal leaf on the front face of the box and the
7 picture of the American flag on the background covering the entire front face of
8 the box;
- 9 c. The blue background color of the entire box;
- 10 d. The yellow line on three sides of the box with a fading visual effect at the right
11 end of the lines, where the wording "Dietary Supplement" is displayed in black in
12 English and in red in Chinese characters; and
- 13 e. The wording and location of the supplemental facts, ingredients, directions, and
14 warning at the back face of the box.

15 23. In 2004, Plaintiff did minor revision to the Pentagyn Box by adding a rainbow design
16 in red, yellow, and green colors on the front face of the Pentagyn Box. *See Exhibit 10*. In 2006,
17 Plaintiff did another minor revisions to the Pentagyn Box by adding the same rainbow design on the
18 side of the box. *See Exhibit 11*. Plaintiff has been continuously using, marketing, advertising and
19 distributing the 2006 variation of the Pentagyn Box in connection with its PENTAGYN brand
20 dietary supplements in interstate commerce since then.

21 24. Plaintiff displays its company name and address on the Liveren G Box and Pentagyn
22 Box as the origin of dietary supplements offered, sold, marketed, and distributed in the Liveren G
23 Box, the Pentagyn Box, and their 2004 and 2006 variations ("Pentagyn Box" will refer to the
24 original Pentagyn Box and its 2004 and 2006 variations, and "Liveren G Box" will refer to the
25 original Liveren G Box and its 2004 and 2006 variations).

26 25. Plaintiff has marketed, sold, and distributed dietary supplements in interstate
27 commerce in the Liveren G Box and the Pentagyn Box since at least as early as December 1998 and
28 February 1999, respectively. Thus, since then, Plaintiff has continuously used the Pentagyn Box, the

1 Liveren Box, and the Wangson Marks thereon to identify its dietary supplements and to distinguish
2 them from those made and sold by others.

3 26. Plaintiff has invested and continues to invest a substantial amount of money and
4 effort in advertising and promoting the Wangson Marks, and Liveren G Box and Pentagyn Box in
5 interstate commerce. By virtue of Plaintiff's extensive use, advertising and promotion, the Liveren
6 G Box, the Pentagyn Box, and the Wangson Marks operate as an exclusive designation of origin of
7 goods, and as symbols of the goodwill and excellent reputation of Plaintiff's business. By reason of
8 Plaintiff's continuous use of the Liveren G Box, the Pentagyn Box, and the Wangson Marks in
9 connection with its dietary supplements and extensive advertising thereof, the Liveren G Box, the
10 Pentagyn Box, and the Wangson Marks have acquired distinctiveness and a secondary meaning to its
11 purchasers. The Liveren G Box, the Pentagyn Box, and the Wangson Marks have come to indicate
12 to its purchasers one embodiment of dietary supplements for consumers, originating only with
13 Plaintiff.

14 27. Plaintiff has prominently displayed the Liveren G Box, the Pentagyn Box, and the
15 Wangson Marks in catalogues, brochures, newspaper advertising, and other promotional materials in
16 interstate commerce. Plaintiff also advertised its Wangson Marks through radio and television
17 advertisements.

18 28. Due to Plaintiff's and its predecessor's continuous use, advertising, and distribution
19 of the distinctive Liveren G Box and Pentagyn Box in connection with its dietary supplements, the
20 Liveren G Box and Pentagyn Box themselves have become an exclusive designation of origin of
21 goods, and as symbols of the goodwill and excellent reputation of Plaintiff. Based on sales,
22 marketing, promotion, and advertising of Plaintiff's dietary supplements packaged in the Liveren G
23 and Pentagyn Box, Plaintiff has established goodwill in the Liveren G Box and the Pentagyn Box as
24 trade dress. Thus, not only the Wangson Marks thereto, but also the overall shape, appearance, and
25 design of the Liveren G Box and Pentagyn Box have acquired a secondary meaning as the trade
26 dress of Plaintiff's dietary supplements and designation of one origin – the Plaintiff. The overall
27 shape and appearance of the Liveren G Box and Pentagyn Box are artistic, nonfunctional, and
28 readily recognized among customers, dealers, and members of trade as originating from Plaintiff.

1 Given the foregoing, Plaintiff has acquired common law trade dress rights in the Liveren G Box and
2 Pentagyn Box.

3 29. In addition to its federal trademark rights, Plaintiff has common law trademark rights
4 with respect to the Wangson Marks, including other marks on the packaging of Liveren G and
5 Pentagyn products, and trade dress for the Liveren G and Pentagyn Boxes. Plaintiff has acquired its
6 common law trademark rights by virtue of: a) its, and its predecessor's, extensive use of the
7 Wangson Marks, including other marks on the packaging of Liveren G and Pentagyn products, and
8 the trade dress for the Liveren G and Pentagyn Boxes; b) its, and its predecessor's, investment on
9 publicizing and advertising its goods under the Wangson Marks, including other marks on the
10 packaging of Liveren G and Pentagyn products, and in the trade dress for the Liveren G and
11 Pentagyn Boxes; c) its, and its predecessor's, efforts to protect their rights in Wangson Marks,
12 including other marks on the packaging of Liveren G and Pentagyn products, and trade dress of
13 Liveren G and Pentagyn Boxes; and d) the public's use and association of the Wangson marks,
14 including other marks on the packaging of Liveren G and Pentagyn products, and the trade dress for
15 the Liveren G and Pentagyn Boxes to refer to Plaintiff's products.

16 30. On or about August 2008, Plaintiff became aware that Defendants have infringed the
17 Wangson Marks and the trade dress of Plaintiff's Liveren G Box and Pentagyn Box by various acts,
18 including advertising, marketing, offering, selling, and distributing dietary supplements in boxes
19 identical to Plaintiff's Liveren G Box and Pentagyn Box and under the Plaintiff's Wangson Marks in
20 interstate commerce. *See Exhibit 12.* Defendants' use of the Wangson Marks and the trade dress for
21 the Liveren G Box and the Pentagyn Box are long after Plaintiff's adoption of the Liveren G Box,
22 the Pentagyn Box, and the Wangson Marks. Defendants' use of the Wangson Marks and the trade
23 dress for the Liveren G Box and the Pentagyn Box is without the express or implicit permission or
24 authorization of Plaintiff.

25 31. The Defendants' use of the Wangson Marks and the trade dress for the Liveren G
26 Box and the Pentagyn Box in commerce is likely to cause confusion, mistake, and deception among
27 the consumers who will believe that the dietary supplements offered by Defendants are actually
28

1 Plaintiff's dietary supplements, or are in some way associated with or approved by Plaintiff, or such
2 dietary supplements otherwise originate from the same source as do Plaintiff's dietary supplements.

3 32. Defendants have inserted false statements on the counterfeit Liveren G Box and
4 Pentagyn Box that the pills inside the counterfeit Liveren G and Pentagyn Box are manufactured
5 and/or distributed by Plaintiff. Defendants fraudulently asserted such statements and affixed
6 Plaintiff's name and address on Defendants' packaging for the counterfeit Liveren G and Pentagyn
7 to deceive the public to believe that the dietary supplements sold in the counterfeit Liveren G Box
8 and Pentagyn Box are originating from Plaintiff and they are Plaintiff's dietary supplements.

9 33. Defendants have falsely advertised in interstate commerce that Defendants' dietary
10 supplements originate from Plaintiff.

11 34. Defendants market, sell, advertise, and distribute infringing dietary supplements for
12 consumers in interstate commerce in direct competition with Plaintiff in the same market and in
13 Plaintiff's trade. Plaintiff's dietary supplements and Defendants' dietary supplements travel through
14 the same or similar distributors and related trade channels.

15 35. Defendants' alleged acts of trademark infringement, false advertising, and unfair
16 competition have been committed willfully with the intent to cause confusion, mistake, and to
17 deceive consumers. Defendants' acts as alleged herein were committed with the intent to pass off
18 and palm off Defendants' goods as the goods of Plaintiff, and with the intent to deceive and defraud
19 the public.

20 36. Defendants, as being the direct competitors of Plaintiff, aim to commercially exploit
21 the Wangson Marks, Plaintiff's trade dress in the Liveren G Box and the Pentagyn Box, and
22 Plaintiff's company name in connection with their dietary supplements in order to obtain economic
23 benefit and advantage at the expense of and causing substantial detriment to Plaintiff.

24 37. Due to Defendants' foregoing actions and infringement, Plaintiff has and continues to
25 suffer substantial economic damages.

26 38. Plaintiff has been irreparably injured and monetarily damaged by Defendants' acts.
27 Unless restrained, Defendants will continue to damage Plaintiff, including causing irreparable injury
28 to its reputation and goodwill.

FIRST CAUSE OF ACTION

Federal Trademark Infringement – 15 U.S.C § 1114(1)

39. Plaintiff re-alleges and incorporates by this reference all the allegations in Paragraphs 1 to 38 as if fully set forth in this paragraph.

40. Defendants have knowingly adopted and prominently used the federally registered Wangson Design to sell dietary supplements to the public with full and actual knowledge of Plaintiff's distinctive Wangson Design and prior use.

41. Defendants adopted the Wangson Design with the intent to capitalize on the goodwill generated by Plaintiff's extensive and widespread use and reputation.

42. Defendants' unauthorized use, distribution, offer to sale, advertising, and sale of dietary supplements, bearing a reproduction, counterfeit, copy, and colorable imitation of the Wangson Design is likely to cause confusion, mistake, or deception as to origin, sponsorship, or approval and, therefore, constitutes trademark infringement in violation of 15 U.S.C. § 1114(1).

43. Defendants' complained acts are willful and have damaged Plaintiff. Unless restrained, Defendants will continue to damage Plaintiff, including causing irreparable injury to its reputation and goodwill.

SECOND CAUSE OF ACTION

False Designation of Origin, False Advertising and

Federal Unfair Competition – 15 U.S.C. § 1125(a)

44. Plaintiff re-alleges and incorporates by this reference all the allegations in Paragraphs 1 to 43 as if fully set forth in this paragraph.

45. Defendants have caused dietary supplements to enter into interstate commerce with the designation and representation of Plaintiff's Wangson Marks and the trade dress and trademarks for the Livercn G Box and the Pentagyn Box. Furthermore, Defendants have displayed Plaintiff's company name on the packaging of their dietary products and falsely advertised their dietary products as if the products originated from, are associated with, or approved by Plaintiff.

1 Defendants' actions constitute a false designation of origin and false advertising which is likely to
2 cause confusion, to cause mistake, and to deceive as to affiliation, connection, or association of
3 Defendants with Plaintiff. These acts are in violation of 15 U.S.C. § 1125(a) in that Defendants have
4 used false designation of origin, false or misleading description, and deception as to affiliation,
5 connection, or association of Defendants goods and commercial activities with Plaintiff's goods and
6 commercial activities.

7 46. Defendants have infringed Plaintiff's rights to commercially exploit the Liveren G
8 Box, the Pentagyn Box, and the Wangson Marks all with the intent to deceive the public into
9 believing that the dietary supplements sold by Defendants originated from, or were endorsed or
10 sponsored by Plaintiff.

11 47. Defendants' actions were committed with the intent to capitalize on the recognition of
12 Plaintiff's Wangson Marks, the Liveren G Box, and the Pentagyn Box with the intent to pass off and
13 palm off Defendants' dietary supplements as the dietary supplements of Plaintiff.

14 48. Plaintiff has been irreparably injured and monetarily damaged by Defendants' acts.
15 Unless restrained, Defendants will continue to damage Plaintiff, including causing irreparable injury
16 to its reputation and goodwill.

17 **THIRTH CAUSE OF ACTION**

18 **Unfair Competition Under Cal. Bus. & Prof. Code § 17200, *et seq.***

19 49. Plaintiff re-alleges and incorporates by this reference all the allegations in Paragraphs
20 1 to 48 as if fully set forth in this paragraph.

21 50. Defendants' activities, as set forth above, constitute unfair competition in violation of
22 Cal. Bus. & Prof. Code § 17200 *et seq.* These wrongful acts have proximately caused and will
23 continue to cause Plaintiff substantial injury, including but not limited to loss of profits, confusion of
24 potential customers, injury to its goodwill and reputation, and diminution in value of its protected
25 works and marks, all in violation of federal and state law as identified in this complaint.

26 51. Defendants' acts, as set forth above, constitute unfair competition and have caused
27 Plaintiff to sustain monetary damage, loss, and injury in an amount to be determined according to
28

1 proof at trial. Plaintiff seeks restitution of all economic gains realized by Defendants as a result of
2 Defendants' unfair competition.

3 52. Plaintiff has been irreparably injured and monetarily damaged by Defendants' acts of
4 unfair competition. Unless restrained, Defendants will continue to damage Plaintiff, including
5 causing irreparable injury to its reputation and goodwill.

6
7 **FOURTH CAUSE OF ACTION**

8 **Common Law Trademark Infringement**

9 53. Plaintiff re-alleges and incorporates by this reference all the allegations in Paragraphs
10 1 to 52 as if fully set forth in this paragraph.

11 54. The above acts, practices, and conducts by Defendants are likely to cause confusion
12 or mistake in the minds of purchasing public and others, and constitute common law trademark
13 infringement of Plaintiff's Wangson Marks, including other marks on the packaging of Liveren G
14 and Pentagyn products, and the trade dress for the Liveren G Box and Pentagyn Box.

15 55. Defendants' complained acts are willful and intentional and have damaged Plaintiff.
16 Unless restrained, Defendants will continue to damage Plaintiff, including causing irreparable injury
17 to its reputation and goodwill.

18
19 **FIFTH CAUSE OF ACTION**

20 **Common Law Unfair Competition**

21 56. Plaintiff re-alleges and incorporates by this reference all the allegations in Paragraphs
22 1 to 55 as if fully set forth in this paragraph.

23 57. The above acts, practices, and conducts by Defendants are likely to cause confusion
24 or mistake in the minds of purchasing public and others, and constitute common law unfair
25 competition and unfair trade practices against Plaintiff.

26 Defendants' complained acts are willful and intentional and have damaged Plaintiff. Unless
27 restrained, Defendants will continue to damage Plaintiff, including causing irreparable injury to its
28 reputation and goodwill.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Enter judgment against Defendants on all of Plaintiff's causes of action;

2. Order an injunction permanently restraining and prohibiting Defendants' unlawful conduct, specifically enjoining Defendants, their officers, directors, agents, servants, employees, attorneys, parents and subsidiaries, and all those persons, firms or corporations acting in concert and participation with them, from:

a. Further infringing Plaintiff's Wangson Marks and the trade dress for the Liveren G Box and the Pentagyn Box;

b. Advertising, distributing, transferring, manufacturing, promoting, selling, or offering for sale, or moving goods bearing Plaintiff's Wangson Marks or the trade dress for the Liveren G Box and the Pentagyn Box and any combinations or variations thereof individually or collectively in commerce;

3. Enter an impoundment order directing the United States Marshall to inspect any business premises, warehouses, or other business or storage facilities used by the Defendants or its agents in Defendants' manufacture, sale, or distribution of infringing products and seize, impound, and deliver into the custody of Plaintiff's counsel the following items:

a. All original copies, photographs, facsimiles or duplicates of the counterfeit Liveren G and Pentagyn supplements;

b. All business records showing the procurement of the products under the Wangson Marks, the Liveren G Box, and the Pentagyn Box from the suppliers and manufacturers, and sale, distribution, and advertising of the products under the Wangson Marks, the Liveren G Box, and the Pentagyn Box by Defendants;

c. All advertising materials, catalogs, price lists, correspondence, or other documents or records relating to advertising, marketing, and sale of Liveren G, Pentagyn, and products associated with the Liveren G Box, the Pentagyn Box, and the Wangson Marks.

4. Order seizure and delivery of all infringing and unlawfully marked products, materials, packaging, stationary, advertising material and the like under the Defendants' possession, custody or control pursuant to 15 U.S.C. §1118;

5. Order Defendants to disclose to Plaintiff the names and addresses of third parties who sold, or offered to sell, the infringing products to Defendants;

6. Award compensatory damages to Plaintiff in an amount to be determined according to proof at trial;

7. Award statutory damages to Plaintiff in an amount to be determined according to proof at trial;

8. Order Defendant to pay punitive damages in an amount to be determined at trial by reason of Defendants' fraud and willful activity;

9. Order Defendants to account for and return to Plaintiff all profits derived from the sale or distribution of any products packaged in the Liveren G and the Pentagyn Box and bearing the WANGSON Marks;

10. Award Plaintiff its reasonable attorney fees and costs of this action;

11. Award such other relief that the Court may deem just, equitable and proper.

Dated: September 5, 2008

INTELLECTUAL PROPERTY LAW
GROUP LLP

By: 

Otto O. Lee
John V. Mejia
Margaux A. Aviguetero
Intellectual Property Law Group LLP
12 S. First St., 12th Floor
San Jose, California 95113
Tel: (408) 286-8933
Fax: (408) 286-8932
olee@iplg.com
jmejia@iplg.com
maviguetero@iplg.com

Attorneys for Plaintiff
WANGSON BIOTECHNOLOGY
GROUP, INC.


DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial as to all issues in this lawsuit.

Dated: September 5, 2008

INTELLECTUAL PROPERTY LAW
GROUP LLP

By: _____


Otto O. Lee
John V. Mejia
Margaux A. Aviguetero
Intellectual Property Law Group LLP
12 S. First St., 12th Floor
San Jose, California 95113
Tel: (408) 286-8933
Fax: (408) 286-8932
olee@iplg.com
jmejia@iplg.com
maviguetero@iplg.com

Attorneys for Plaintiff
WANGSON BIOTECHNOLOGY
GROUP, INC.

INTELLECTUAL PROPERTY LAW GROUP LLP
12 South First Street, Twelfth Floor
San Jose, California 95113